

AMENDED IN SENATE MAY 18, 2004

AMENDED IN SENATE MAY 3, 2004

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1904

Introduced by Senator Florez
(Coauthors: Senators Escutia, Karnette, and Perata)

March 4, 2004

~~An act to add Section 213.5 to the Labor Code, relating to payment of wages. An act to add Article 1.5 (commencing with Section 865) to Chapter 7 of Division 1 of the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1904, as amended, Florez. ~~Payment of wages: direct deposit~~
~~Banks: paycheck cashing charges.~~

Existing law provides for the regulation of banks by the Commissioner of Financial Institutions. Existing law imposes various requirements on banks with regard to deposits, checks, and investments.

This bill would prohibit a bank from assessing a charge or fee to cash a paycheck for a person who does not have an account at the bank if the paycheck was issued by the bank for a business client of the bank that provides the paychecks to its employees.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes the various requirements for the payment of wages by employers to employees. Existing law prohibits the payment of wages via any instrument that is not negotiable and payable in cash~~

on demand, without discount, at some established business in the state. Existing law does not prohibit an employer from depositing wages due in an account at any bank, savings and loan association, or credit union of the employee's choice when the employee has voluntarily authorized a direct deposit.

This bill would establish the requirements that must be contained in an employee's request for direct deposit and would require an employer who receives a request for direct deposit from an employee to honor that request within 30 days, unless doing so would violate the provisions of an applicable collective bargaining agreement.

The bill would further impose notice requirements on the employer by requiring every employer to provide a copy of the bill's provisions, in the primary language understood by the employee, to each employee with the employee's first paycheck.

Vote: majority $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 213.5 is added to the Labor Code, to~~
 2 *SECTION 1. Article 1.5 (commencing with Section 855) is*
 3 *added to Chapter 7 of Division 1 of the Financial Code, to read:*

4
 5 *Article 1.5. Paycheck Charges*
 6

7 855. A bank may not assess any charge or fee to cash a
 8 paycheck for a person who does not have an account at the bank
 9 if the paycheck was issued by the bank for a business client of the
 10 bank that provides the paychecks to the employees of the business
 11 client.

12 *SEC. 2. This act is an urgency statute necessary for the*
 13 *immediate preservation of the public peace, health, or safety*
 14 *within the meaning of Article IV of the Constitution and shall go*
 15 *into immediate effect. The facts constituting the necessity are:*

16 *In order for the provisions of this act to take effect as soon as*
 17 *possible, it is necessary that this act take effect immediately.*
 18 *read:*

19 ~~213.5.—(a) An employee who maintains an account qualifying~~
 20 ~~for participation in a direct deposit plan available at any financial~~
 21 ~~institution may request that his or her employer pay the employee's~~

1 ~~wages by directly depositing the wages into the employee's~~
2 ~~account.~~

3 ~~(b) The employee requesting direct deposit shall provide~~
4 ~~written notification to his or her employer and include in the~~
5 ~~notification any information necessary to implement the direct~~
6 ~~deposit or required by the bank, savings and loan association, or~~
7 ~~credit union where the employee's account is maintained to~~
8 ~~establish direct deposit.~~

9 ~~(c) In addition to all other requirements set forth in this code~~
10 ~~relating to the payment of wages, including, but not limited to,~~
11 ~~those contained in Section 226, an employer who receives a~~
12 ~~request for direct deposit that complies with the requirements of~~
13 ~~subdivision (b) shall, within 30 days of receipt of the employee's~~
14 ~~request, comply with the request by implementing payment of~~
15 ~~wages via direct deposit into the requesting employee's account,~~
16 ~~unless compliance would violate the provisions of any applicable~~
17 ~~collective bargaining agreement governing the employment~~
18 ~~relationship.~~

19 ~~(d) Every employer shall attach a copy of this section to the first~~
20 ~~paycheck that each employee receives, and to the first paycheck~~
21 ~~received by each new hire who begins work, on or after January~~
22 ~~1, 2005. Copies shall be provided in the primary language~~
23 ~~understood by the employee.~~

